

U. S. DEPARTMENT OF LABOR

Employees' Compensation Appeals Board

In the Matter of JUANITA L. WALTON and U.S. POSTAL SERVICE,
POST OFFICE, Washington, DC

*Docket No. 97-2466; Oral Argument Held January 20, 2000;
Issued March 27, 2000*

Appearances: *Alfred E. Davis, Esq.*, for appellant; *Sheldon G. Turley, Jr., Esq.*,
for the Director, Office of Workers' Compensation Programs.

DECISION and ORDER

Before GEORGE E. RIVERS, MICHAEL E. GROOM,
A. PETER KANJORSKI

The issue is whether appellant is entitled to compensation after June 6, 1996, the date the Office of Workers' Compensation Programs terminated her benefits.

On May 11 and July 7, 1995 appellant, then a 52-year-old machine operator, filed occupational disease claims alleging that she sustained right and left knee problems due to factors of her federal employment. The Office accepted appellant's claim for bilateral knee synovitis and authorized arthroscopies of both knees.

Appellant returned to limited-duty employment on October 30, 1995. On June 6, 1996 appellant stopped work and filed a claim for continuing compensation on account of disability (Form CA-8) requesting compensation from June 6 to 21, 1996.

By decision dated June 24, 1996, the Office denied appellant's claim for compensation for temporary total disability from June 6 to 21, 1996 and found that she was not entitled to compensation after June 22, 1996 on the grounds that the weight of the medical evidence, as represented by the opinion of Dr. Avaro A. Sanchez, a Board-certified orthopedic surgeon and Office referral physician, established that she had no further disability due to her accepted employment injury.

In a letter dated July 16, 1996, appellant requested a hearing before an Office hearing representative. By decision dated July 10, 1997, the hearing representative affirmed the Office's June 24, 1996 decision.

The Board finds that the Office met its burden of proof to terminate appellant's compensation benefits.

Once the Office has accepted a claim, it has the burden of justifying termination or modification of compensation benefits.¹ The Office may not terminate compensation without establishing that the disability ceased or that it was no longer related to the employment.² The Office's burden of proof includes the necessity of furnishing rationalized medical opinion evidence based on a proper factual and medical background.³

The Board finds that the Office met its burden of proof to terminate appellant's compensation effective June 6, 1996 based on its finding that the well-rationalized opinion of the Office referral physician, Dr. Sanchez, constituted the weight of the medical evidence. In a report dated June 3, 1996, he discussed appellant's history of injury and listed findings on physical examination. Dr. Sanchez diagnosed degenerative arthritis of the knees and opined that appellant might "require a total knee arthroplasty for relief of symptoms related to bilateral degenerative arthritis, but this is not a work-related condition." He found that appellant could perform the duties of her regular employment and further found that her employment-related condition of bilateral synovitis had resolved.

The Board has carefully reviewed the opinion of Dr. Sanchez and notes that it has reliability, probative value and convincing quality with respect to its conclusions regarding the relevant issue in the present case. He provided a thorough factual and medical history and accurately summarized the relevant medical evidence. Moreover, Dr. Sanchez analyzed the factual and medical history and his findings on physical examination, and reached conclusions regarding appellant's condition which comported with this analysis.⁴ He provided medical rationale for his opinion by explaining that the findings upon examination did not show any evidence of appellant's employment injury of bilateral synovitis of the knees. Dr. Sanchez found that appellant could resume her regular employment.

The remaining evidence of record submitted prior to the Office's termination of compensation is insufficient to support that appellant had continuing disability due to her employment injury. In a progress note dated April 9, 1996, Dr. Rida N. Azer, a Board-certified orthopedic surgeon and appellant's attending physician, found that she had "severe residuals from her injury of February 8, 1995 which has given her traumatic arthritis." She recommended a total right knee replacement. In an accompanying disability certificate, Dr. Azer listed permanent work restrictions. The Board notes that the Office did not accept appellant's claim for traumatic arthritis. Appellant, therefore, has the burden of proof in establishing that this condition is causally related to employment factors through the submission of rationalized medical opinion evidence.⁵ Dr. Azer provided no rationale in support of her statement that appellant's traumatic arthritis was due to an injury on February 8, 1995 and thus her opinion is of

¹ *Charles E. Minniss*, 40 ECAB 708, 716 (1989); *Vivien L. Minor*, 37 ECAB 541, 546 (1986).

² *Id.*

³ *See Del K. Rykert*, 40 ECAB 284, 295-96 (1988).

⁴ *See Melvina Jackson*, 38 ECAB 443 (1987).

⁵ *See Charlene R. Herrera*, 44 ECAB 361 (1993).

little probative value.⁶ Further, there is no evidence in the record that appellant sustained an employment-related injury to her knee on that date.

In a progress note dated June 6, 1996, Dr. Azer stated that appellant related that a bag on her lap struck her knees as she worked. She found that appellant had synovitis of both knees and further found that she should not return to her employment until the next visit. Dr. Azer noted that appellant should use the elevator rather than the stairs when she returned to employment. She, however, did not explain how appellant's employment-related condition worsened such that she was unable to work beginning June 6, 1996, and thus the report is of little probative value. Accordingly, as the record does not contain probative medical evidence supporting a finding that appellant had any further employment-related disability, the Office met its burden of proof to terminate appellant's compensation benefits.

Given that the Board has found that the Office properly relied upon the opinion of the Office referral physician, Dr. Sanchez, in terminating compensation, the burden of proof shifts to appellant to establish that she remains entitled to compensation after that date.⁷ To establish causal relationship between the claimed disability and the employment injury, appellant must submit rationalized medical opinion evidence based on a complete factual and medical background supporting such causal relationship.⁸

In a progress note dated June 28, 1996, Dr. Azer discussed appellant's continued complaints of pain and found that her condition and limitations were unchanged. She opined that appellant's "arthritis is traumatic, meaning caused by the injury, which caused changes in the joint and these did result from the injury of February 8, 1995." As discussed above, the Office did not accept that appellant sustained traumatic arthritis due to factors of her federal employment or that she experienced an employment-related traumatic injury on February 8, 1995. Thus, Dr. Azer's opinion is insufficient to meet appellant's burden of proof.

In a report dated September 24, 1996, Dr. Azer found pain and crepitus of the knees and diagnosed traumatic arthritis due to a February 8, 1995 injury. She stated:

"Apparently when [appellant] returned to work the end of October 1995 her duties included climbing a hundred stair flights per day, as she was apparently not allowed to use the elevator. In addition to the previous mechanism mentioned in my note of June 6, 1996, that caused aggravation of her condition. In addition, while [appellant] is sitting she apparently has to twist from side to side with her feet planted on a pan; this is causing rotation of the tibia on the femur on both knees and also aggravating her condition. She also apparently works under doors which blow cold air at her and this increases the symptoms of her knee discomfort."

⁶ *Arlonia B. Taylor*, 44 ECAB 591 (1993).

⁷ *George Servetas*, 43 ECAB 424 (1992).

⁸ *John M. Tornello*, 35 ECAB 234 (1983).

Dr. Azer's report is based on an inaccurate factual background, that of appellant climbing over a hundred stair flights per day, when appellant stated at the hearing that she climbed a flight of 25 steps 2 to 3 times per day, and thus the report is of little probative value.⁹ Further, she did not provide more than a conclusory statement regarding the causal relationship between the diagnosed condition of traumatic arthritis and appellant's employment and thus the report is insufficient to meet her burden of proof.¹⁰

In a progress note dated November 1, 1996, Dr. Azer recommended a total knee replacement and listed physical limitations. In a progress note dated December 4, 1996, she found that appellant could not perform the duties of a machine operator offered by the employing establishment. Dr. Azer did not address the cause of appellant's condition and thus these reports are of little probative value.

In an undated form report received by the Office in December 1996, Dr. Azer diagnosed bilateral traumatic synovitis and chondromalacia of the patella and checked "yes" that the condition was caused or aggravated by employment. She found appellant partially disabled from October 31, 1995 to the present. The Board has held that a physician's opinion on causal relationship which consists only of checking "yes" in response to a form question without any attendant rationale has little probative value and is insufficient to establish causal relationship.¹¹

In a fitness-for-duty examination dated September 27, 1996, Dr. Thomas F. Ryan, a Board-certified orthopedic surgeon, diagnosed bilateral synovitis "secondary to degeneration of the condyles and possible avascular necrosis." He found that appellant could not perform the work of a machine operator. Dr. Ryan, however, did not address the cause of the diagnosed condition and thus his report is of little relevance to the issue in the present case, which is whether appellant had continuing employment-related disability. Appellant, consequently, has not met her burden of proof to establish any employment-related continuing disability.

⁹ *Daniel J. Overfield*, 42 ECAB 718 (1991).

¹⁰ *Connie Johns*, 44 ECAB 560 (1993).

¹¹ *Ruth S. Johnson*, 46 ECAB 237 (1994).

The decision of the Office of Workers' Compensation Programs dated July 10, 1997 is hereby affirmed.

Dated, Washington, D.C.
March 27, 2000

George E. Rivers
Member

Michael E. Groom
Alternate Member

A. Peter Kanjorski
Alternate Member